

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

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|---------------------------|---|-------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | No. 4:06-CV-09 |
| |) | (MATTICE/SHIRLEY) |
| JOHN M. HUSKEY, |) | |
| |) | |
| Defendant. |) | |

MEMORANDUM AND ORDER

This matter is before the undersigned pursuant to 28 U.S.C. § 636(b) and the Rules of this Court. A judgment in favor of the Plaintiff in the amount of \$10,376.34, plus interest accruing on \$9,266.22 thereof at a rate of 6.08% per annum from November 22, 2005 to the date of judgment, was entered by the Honorable James H. Jarvis, Senior District Court Judge on January 31, 2007. [Doc. 7.] The Plaintiff served post-judgment discovery requests on the Defendant on March 21, 2008. [Doc. 9 Ex. 2 & 3.] On June 3, 2008, the Plaintiff moved the Court to compel the Defendant to respond to Plaintiff's discovery requests. [Doc. 8.]

A hearing on the Plaintiff's motion to compel was set for August 1, 2008, and on July 1, 2008, the clerk of court sent notice of the hearing to the Defendant at 200 Scenic Circle, Tullahoma, Tennessee 37388, via United States Postal Service ("USPS") regular mail and certified mail. The certified mail was returned to the clerk of court unclaimed on July 21, 2008. The notice sent via regular mail has not been returned. The hearing was subsequently reset for August 14, 2008, and on July 28, 2008, the clerk of court sent notice to the Defendant at the above described address via

USPS regular and certified return receipt mail. On August 15, 2008, the clerk of court notified the Court that the notice of hearing sent via regular mail was returned to the clerk with a notation that the Defendant had moved.

The Defendant has not responded to the instant motion and the time for doing so has passed. See L.R. 7.1(a), 7.2. The parties were to come before the Court on August 14, 2008, for a hearing on the instant motion. Suzanne Bauknight and Will Monahan were present on behalf of the Plaintiff. The Defendant did not appear at the hearing. At the hearing, the Plaintiff informed the Court that it had checked with both the USPS and credit bureaus, which confirmed that 200 Scenic Circle, Tullahoma, Tennessee 37388, was the correct address for the Defendant and that the Defendant received mail at the address.

The regular mail sent to 200 Scenic Circle, Tullahoma, Tennessee 37388, on July 1, 2008, has not been returned, which indicates that the Defendant received mail at the address at that time. Further, the Plaintiff has confirmed with reliable agencies that the address was an address at which the Defendant received mail. Although the most recent regular mailing was returned, the first regular mailing was not returned, which supports a finding that the defendant received notice of the pending motion at the above address prior to moving from the address. Based upon these facts, the Plaintiff's motion [Doc. 8] was **GRANTED**. The Defendant shall provide the Plaintiff with the Defendant's responses to the post-judgment discovery requests on or before September 17, 2008.

IT IS SO ORDERED.

ENTER:

s/ C. Clifford Shirley, Jr.
United States Magistrate Judge